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Crown Response to the Abuse in Care Inquiry

COVERSHEET

Minister	Hon Erica Stanford	Portfolio	Lead Coordination Minister for the Government's Response to the Royal Commission's Report into Historical Abuse in State Care and in the Care of Faith-based Institutions
Title of briefing	Abuse in Care Inquiry: Response Plan Scope	Date to be published	30 September 2025

Withholding grounds

Information within this document has been withheld as if it had been requested under the Official Information Act 1982. Where this is the case, the reasons for withholding have been listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

- section 9(2)(a) to protect the privacy of natural persons
- section 9(2)(f)(iv) to maintain the current constitutional conventions protecting the confidentiality of advice tendered by Ministers and officials



Briefing

Abuse in Care Inquiry: Response Plan Scope			
Date:	3 April 2025	Security level:	
Priority:	Medium	Report number:	CRACI 25/019

Actions for Minister	
Hon Erica Stanford Minister of Education and Lead Coordination Minister for the Government's Response to the Royal Commission's Report into Historical Abuse in State Care and in the Care of Faith-based Institutions	Confirm a proposed approach to making policy decisions on the scope of the Crown Response, particularly for the purposes of work to respond to the 'Care System' recommendations. Forward the attached briefing to the following Ministers: Hon Simeon Brown, Minister of Health Hon Paul Goldsmith, Minister of Justice Hon Louise Upston, Minister for Social Development and Employment and Minister for Disability Issues Hon Judith Collins, Minister for the Public Service Hon Mark Mitchell, Minister of Police Hon Tama Potaka, Minister for Māori Development Hon Matt Doocey, Minister for Mental Health Hon Scott Simpson, Minister for ACC Hon Casey Costello, Associate Minister of Health Hon Karen Chhour, Minister for Children

Contact for discussion			
Name	Position	Telephone	1 st contact
Rajesh Chhana	Chief Executive, Crown Response Office		
Rebecca Martin	Head of Policy, Crown Response Office	s9(2)(a)	✓

Agencies consulted
The Public Service Commission, the Ministries of Health, Education, Justice and Social Development, the Ministry of Disabled People (Whaikaha), the New Zealand Police, Te Puni Kōkiri, and the Ministry for Children (Oranga Tamariki) have helped develop these proposals and were consulted on this paper. The Department of Corrections and the Ministry for Pacific Peoples were also consulted, and The Treasury has been informed.

Minister's office to complete

- ☐ Noted
- ☐ Seen
- ☐ See Minister's notes
- ☐ Needs change
- ☐ Overtaken by events
- ☐ Declined
- ☐ Referred to (specify)

Comments

Proactive release - open and transparent government



Briefing

Abuse in Care Inquiry: Response Plan Scope

For: Hon Erica Stanford, Minister of Education and Lead Coordination Minister for the Government's Response to the Royal Commission's Report into Historical Abuse in State Care and in the Care of Faith-based Institutions

Hon Simeon Brown, Minister of Health

Cc: Hon Paul Goldsmith, Minister of Justice

Hon Louise Upston, Minister for Social Development and Employment and Minister for Disability Issues

Hon Judith Collins, Minister for the Public Service

Hon Mark Mitchell, Minister of Police

Hon Tama Potaka, Minister for Māori Development

Hon Matt Doocey, Minister for Mental Health

Hon Scott Simpson, Minister for ACC

Hon Casey Costello, Associate Minister of Health

Hon Karen Chhour, Minister for Children

Date: 3 April 2025

Security level:

Priority: Medium

Report number: CRACI 25/019

Background and purpose

1. Cabinet is due to consider the Response Plan, which sets out the Government's response to the recommendations of the Royal Commission of Inquiry into Historical Abuse in State Care and in the Care of Faith-based Institutions (the Royal Commission), in May 2025.
2. At the 10 February 2025 joint Ministers' meeting, Ministers received an update on the response plan. Ministers then commissioned advice on a proposed approach to policy decisions on the scope of the response, particularly how to determine who is 'in care' for the purposes of responding to the recommendations. This briefing responds to that request.

Recommendations

3. It is recommended that you:

- a. **note** work to date to respond to the Royal Commission's recommendations has determined the population in scope on a case-by-case basis, reflecting the different operational and policy context of each recommendation;
- b. **note** that decisions on the scope of the response to the redress recommendations is being sought from Cabinet in this week, including decisions about eligibility for redress for abuse survivors;
- c. **note** that decisions on the scope of the response to the care system recommendations will be sought from relevant Ministers as part of the joint agency work on care system design and delivery;
- d. **agree** to continue to determine populations in scope of responses on a case by case basis;
- e. **note** Officials will consider the Royal Commission's definition of 'in care' but advice on responses will propose including or excluding other populations, where appropriate, to meet the objective to improve the care system; and
- f. **forward** this paper to the following Ministers: Hon Simeon Brown, Minister of Health, Hon Paul Goldsmith, Minister of Justice, Hon Louise Upston, Minister for Social Development and Employment and Minister for Disability Issues, Hon Judith Collins, Minister for the Public Service, Hon Mark Mitchell, Minister of Police, Hon Tama Potaka, Minister for Māori Development, Hon Matt Doocey, Minister for Mental Health, Hon Scott Simpson, Minister for ACC, Hon Casey Costello, Associate Minister of Health, and Hon Karen Chhour, Minister for Children, for their information.

YES/NO

YES/NO

Rajesh Chhana
Chief Executive, Crown Response Office

Hon Erica Stanford
Lead Coordination Minister for the Government's
Response to the Royal Commission's Report into
Historical Abuse in State Care and in the Care of
Faith-based Institutions

02 / 04 / 2025

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The Royal Commission had a broad, inclusive, definition of who was 'in care'

4. The Royal Commission set out the following definition of whether someone was in State care and therefore within the scope of its Inquiry:

"In care" is where the State assumes responsibility, whether directly or indirectly, for the care of a child, young person or adult. "In care" includes where responsibility was assumed because of a decision or action by an official, through a voluntary or consent-based process or as the result of an order. It includes where the State passed on its authority through delegation, contract, license or in some other way.

5. Despite the above, the terms of reference focussed more on care settings than the legal status of being in care (i.e. having a 'care order' or admission to hospital etc.). They also specifically included some settings, and specifically excluding others, as follows:
 - a. **Care settings specifically included:** care and protection and youth justice residences, foster care, adoptions, children's homes, borstals, psychiatric hospitals and disability facilities, non-residential psychiatric and disability care, health camps, ECE centres, all State schools, teen parent units, police cells, and court cells (full list in Appendix one);
 - b. **Care settings specifically excluded:** adult prisons, general hospitals, aged residential care, and immigration detention, unless the person was also in State care at the time.
6. For faith-based institutions, 'in care' included informal and pastoral care relationships and focussed more on a person "with power or authority conferred by the faith-based institution" than on the setting in which abuse occurred.

Work to date to respond to the Royal Commission's recommendations has taken a case-by-case approach to determining scope

7. The Royal Commission recommendations cover a wide range of work areas such as redress for past harm, apologies, record keeping and access to records, workforce safety, building design, organisational accreditation, registration of care workers, safety in service design and delivery (eg safeguarding), and monitoring and oversight.
8. The scope of the populations covered by the recommendations vary considerably and may not be determined by the Royal Commission's definition of 'in care'. For example, the scope of workforce recommendations need to be considered in the context of existing professional regulatory frameworks which usually apply across whole professions rather than to specific care contexts or populations (e.g. teachers, nurses, social workers, etc.), recommendations for social and educational campaigns would likely apply to whole populations, and the recommendation relating to Gloriavale applies to only people living in the community, most of whom are not 'in care'. Many of these populations overlap, but some are quite distinct.
9. Work to date to respond to the recommendations has taken scope decisions on a case-by-case basis. For example:
 - a. The Public apology: The Prime Minister made decisions to apologise to family and whānau of people abused in State care, people abused in faith-based care (where the State had not acted to protect those people), and for abuse in settings that are not considered to be 'in care' for the purposes of redress (such as adoptions);
 - b. The Care Records website: The website is targeted at anyone who has experienced care, including non-state care, rather than just state abuse survivors. This is a pragmatic response since the records are all kept together, and a fair one since everyone has a right to access their records, whether or not they experienced abuse; and

- c. The Survivor Experiences Service: Cabinet made decisions to enable access to the service to survivors of abuse in any context and their family and whānau because the access is not based on liability, but on need for this type of service.
10. The key to these decisions has been to take a pragmatic approach – to include some groups where it makes sense to include them even if they are not in scope – at the discretion of Ministers and senior decision makers.

Further scope decisions are needed on eligibility for redress, and on the care safety recommendations

11. Further decisions will be required around the scope as the Government response to the recommendations progresses. Decisions on redress scope are being sought from Cabinet in April 2025. Because redress is an Alternative Dispute Resolution (ADR) process, eligibility for redress is recommended to be determined by the risk of the Crown being found liable for abuse against a specific person.
12. Liability for redress is determined by a range of things, including historical operational matters, rather than through a single definition of 'being in care'. Officials will provide further advice to joint Ministers by 9(2)(f)(iv) on redress responses for a wider population of survivors, such as those currently dealt with by School Boards, Health New Zealand and non-state care providers.
13. For recommendations relating to the care system, officials propose to seek decisions from appropriate portfolio Ministers on scope, including the populations covered and the workforce involved, as part of the scoping phase of each group of recommendations. Examples of some of the decisions to be sought are set out in Appendix Two.
14. The first phase of the care system work involves joint agency work on care system design and delivery. This will include developing an outcomes framework and identifying which parts of the care system could benefit from greater integration, coordination or alignment. In the process, it will define the scope of the care system that will frame much of the subsequent work on the care safety elements of the response. As it is one of the first priorities under the Response Plan, this work is expected to report back to Cabinet by 9(2)(f)(iv), with decisions sought from portfolio Ministers through the year.
15. A likely outcome of the care system work is that different populations and settings will be within the scope of responses to different recommendations, rather than a single definition of who is "in care" being used. The definitions of in-care and care worker developed and used by the Royal Commission in its final report will need to be considered, but the scope will not be determined by those definition as there may be occasions where it makes sense to include groups not covered by the Royal Commission. Such decisions will be sought from relevant Ministers and decision makers, as required.

Next steps

16. This decision will be included in the overarching narrative for the Response Plan, and a section identifying the scope and decision-making process will be included in the future Response Plan monitoring reports.

Appendix One: Definitions from Whanaketia and from the Royal Commission's Terms of Reference

in care: Where a State or a faith-based institution assumed responsibility, whether directly or indirectly, for the care of a child, young person or adult in care. (*Whanaketia*)

indirect care: Where people or organisations provided care on behalf of the State. Examples include foster carers, third party providers including faith-based institutions, and contracted community care providers (such as Barnardos, IHC and Anglican Trust) (*Whanaketia*)

Settings: In its Terms of Reference, 'State care' (direct or indirect) includes the following settings:

- a) social welfare settings, including, for example:
 - care and protection residences and youth justice residences:
 - child welfare and youth justice placements, including foster care and adoptions placements:
 - children's homes, borstals, or similar facilities:
- b) health and disability settings, including, for example:
 - psychiatric hospitals or facilities (including all places within these facilities):
 - residential or non-residential disability facilities (including all places within these facilities):
 - non-residential psychiatric or disability care:
 - health camps:
- c) educational settings, including, for example:
 - early childhood educational facilities:
 - primary, intermediate, and secondary State schools, including boarding schools:
 - residential special schools and regional health schools:
 - teen parent units:
- d) transitional and law enforcement settings, including, for example:
 - police cells:
 - police custody:
 - court cells:
 - abuse that occurs on the way to, between, or out of State care facilities or settings.

The settings listed above may be residential or non-residential and may provide voluntary or non-voluntary care. The inquiry may consider abuse occurring in any place within these facilities or settings. The inquiry may consider abuse that occurred in the context of care but outside a particular facility. For example, abuse of a person in care, which occurred outside the premises, by a person who was involved in the provision of care, another person (as described in clause 17.1(b)), or another care recipient.